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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 **SHIONOGI & CO., LTD., a Japanese**
company,

14 **Plaintiff,**

15 **v.**

16 **INTERMUNE, INC., a Delaware**
17 **corporation,**

18 **Defendant.**
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Case No. 3:12-CV-03495 EDL

**STIPULATION REGARDING
DISMISSAL WITHOUT PREJUDICE
OF CLAIMS 3-5 OF THE
COMPLAINT**

1 1. WHEREAS, Plaintiff Shionogi & Co., Ltd. ("Shionogi") filed its Complaint
2 against InterMune, Inc. ("InterMune") for Breach of Contract, Declaratory Relief, Promissory
3 Estoppel, Unjust Enrichment and Accounting (the "Complaint") on July 5, 2012; and

4 2. WHEREAS, the parties have determined that the case may be streamlined under
5 the circumstances;

6 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between
7 the parties, through their counsel, that:

8 A. InterMune stipulates that the Agreement for Collaboration to Exchange
9 Documents from Clinical Studies between Shionogi and InterMune, effective as of May 27, 2004,
10 and as amended effective February 11, 2010, is valid and binding on the parties thereto;

11 B. Shionogi will voluntarily dismiss without prejudice the Promissory Estoppel,
12 Unjust Enrichment and Accounting claims (the Third through Fifth Claims for Relief) of the
13 Complaint by filing a First Amended Complaint omitting those claims on August 31, 2012; and

14 C. To the extent circumstances arise supporting a good faith basis for Shionogi to
15 reassert the Promissory Estoppel, Unjust Enrichment and Accounting claims, InterMune will not
16 argue that Shionogi is precluded from asserting those claims by virtue of their earlier dismissal
17 and will not argue that those claims are time-barred either by the applicable statute of limitations
18 or equitable defenses such as laches, provided that such claims were not otherwise time-barred as
19 of July 5, 2012.

20 Dated: August 31, 2012

Jones Day

21 By: /s/ Jason McDonell
 Jason McDonell

22 Attorneys for Plaintiff
23 SHIONOGI & CO., LTD.

24 Dated: August 31, 2012

LATHAM & WATKINS LLP

25 By: /s/ Patrick E. Gibbs
 Patrick E. Gibbs

26 Attorney for Defendant
27 INTERMUNE, INC.

CIVIL L.R. 5(i)(3) ATTESTATION OF CONCURRENCE OF SIGNATORIES

I, Jason McDonell, am the ECF user whose identification and password are being used to file this Stipulation. Pursuant to Civil L.R. 5(i)(3), I hereby attest that Patrick E. Gibbs, counsel for Defendant, has concurred in the filing of this documents.

Dated: August 31, 2012

Jones Day

By: /s/ Jason McDonell
Jason McDonell

Attorneys for Plaintiff
SHIONOGI & CO., LTD.